

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:18- 24227-CIV-Altonaga/Goodman

JASON MILLER,

Plaintiff,

vs.

GIZMODO MEDIA GROUP, LLC,
a Delaware Corporation, KATHERINE
KRUEGER, individually, and WILL
MENAKER, individually,

Defendants. /

JOINT MOTION TO AMEND CERTAIN PRETRIAL DEADLINES

Defendants Gizmodo Media Group, LLC and Katherine Krueger (the “Gizmodo Defendants”) and Plaintiff Jason Miller (“Miller” or “Plaintiff”) (collectively “Parties”) hereby jointly move the Court pursuant to Fed. R. Civ. P. 16(b)(4) to amend certain deadlines in the Court’s Amended Scheduling Order entered April 1, 2019 [ECF No. 101] (the “Scheduling Order”) by modifying certain deadlines but retaining the trial date set forth in the Scheduling Order. In support of the Joint Motion, the Parties state as follows:

ARGUMENT

1. The Parties have actively engaged in discovery and have been working together to try and resolve discovery disputes. Despite that, certain expert scheduling conflicts have resulted in the need for two (2) deadlines to be extended – the *Daubert* motion deadline and the dispositive/summary judgment *reply* deadline.

2. Pursuant to the Scheduling Order [ECF No. 101], discovery is to be completed by June 6, 2019, and dispositive and *Daubert* Motions are due by June 27, 2019.

3. Rule 16(b)(4) Fed. R. Civ. P. allows the Court to modify its Scheduling Order for good cause. There is good cause to extend the *Daubert* and summary judgment *reply* deadlines to allow the Parties to complete necessary expert depositions and briefing. This Joint Motion is not made for purposes of delay.

4. Plaintiff has disclosed expert Craig Kronenberger in this matter. Plaintiff has also informed the Gizmodo Defendants that expert Kronenberger is not available for deposition until June 17, 2019.

5. The Gizmodo Defendants have disclosed expert Terri Giddens as a rebuttal expert. As a rebuttal expert, Ms. Giddens' deposition is scheduled to take place after expert Kronenberger, on June 20, 2019. These expert depositions are scheduled to take place in Georgia and Texas, respectively.

6. While the Scheduling Order allows the Parties to extend the expert deposition deadline by agreement [ECF No. 101, n. 1], the expert deposition scheduling conflicts will affect other deadlines in the Scheduling Order, necessitating this Joint Motion. Specifically, the current *Daubert* motion deadline is June 27, 2019, which leaves only a few days after the completion of out-of-state expert depositions to prepare and file such motions. Accordingly, in order to allow sufficient time to travel and prepare necessary motions, the Parties jointly request this court to extend the deadline to file *Daubert* motions to July 18, 2019.

7. Further, the dispositive motion deadline is also June 27, 2019. Per the SDFL Local Rule 7.1(c), responses to any dispositive/summary judgment motion would thereafter be due July 11 and replies due July 18, 2019. Both sides presently anticipate filing a motion for summary judgment. Because of the time constraints with expert discovery and *Daubert* motions, the Parties request a brief, 4-day extension *only* of the *reply* deadline associated with their anticipated dispositive motions to July 22, 2019. The Parties do not seek an extension of the June

27 deadline to file dispositive motions or an extension of the deadline for responses thereto.

8. The Parties respectfully submit herewith a joint proposed order with proposed alternative dates consistent with the rules of this Court. In short, the Parties ask that the *Daubert* deadline be moved to July 18, 2019 with briefing to follow in accordance with the Southern District of Florida's Local Rules, and the deadline to file *reply* memoranda to motions for summary judgment to July 22, 2019. The Parties do not request an amendment of any other deadline or an adjournment of the September 3, 2019 trial date.

9. The Parties are cognizant of this Court's need to have sufficient time to review the dispositive and *Daubert* motions in advance of trial. Accordingly, the Parties do not object to this Court's enlarging other pre-trial, dispositive motion deadlines should the Court deem it appropriate, in granting the relief requested in this motion.

WHEREFORE, the Gizmodo Defendants respectfully request that this Court enter an order granting this motion by extending the *Daubert* deadline to July 18, 2019 and summary judgment *reply* deadline to July 22 as set forth in the proposed order attached as Ex. A.

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3), counsel for the conferred in person on May 14, 2019 regarding the relief requested herein. The Parties jointly present this motion to the Court.

Respectfully submitted,

May 17, 2019

/s/ Shane B. Vogt
Kenneth G. Turkel, Esq.
kturkel@bajocuva.com
Shane B. Vogt, Esq.
shane.vogt@bajocuva.com
BAJO CUA COHEN TURKEL
100 N. Tampa Street, Ste. 1900

/s/ Deanna K. Shullman
Deanna K. Shullman (Florida Bar No. 514462)
Rachel Fugate (Florida Bar. No. 144029)
Giselle M. Girones (Florida Bar. No. 124373)
SHULLMAN FUGATE PLLC
2101 Vista Parkway, Suite 4006
West Palm Beach, FL 33411
Telephone: (561) 429-3619

Tampa, FL 33602
Telephone: (813) 443-2193

dshullman@shullmanfugate.com
rfugate@shullmanfugate.com
ggirones@shullmanfugate.com

and

/s/ Elizabeth A. McNamara
Elizabeth A. McNamara (*pro hac vice*)
Katherine M. Bolger (*pro hac vice*)
Claire K. Leonard (*pro hac vice*)
DAVIS WRIGHT TREMAINE
1251 Avenue of the Americas, 21st Floor
New York, New York 10020
Telephone: (212) 489-8230
lizmcnamara@dwt.com
katebolger@dwt.com
claireleonard@dwt.com

*Attorneys for Defendants Gizmodo Media
Group, LLC and Katherine Krueger*

CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2019, a true and correct copy of the foregoing has been served by CM/ECF on all counsel or parties of record on the service list.

/s/Deanna K. Shullman

Deanna K. Shullman
Florida Bar No. 514462

SERVICE LIST

Attorneys for Plaintiff:

Kenneth G. Turkel, Esq.
kturkel@bajocuva.com
Shane B. Vogt, Esq.
shane.vogt@bajocuva.com
BAJO CUVA COHEN TURKEL
100 N. Tampa Street, Ste. 1900
Tampa, FL 33602
Telephone: (813) 443-2193

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:18-24227-CIV-Altonaga/Goodman

JASON MILLER,

Plaintiff,

vs.

GIZMODO MEDIA GROUP, LLC,
a Delaware Corporation, KATHERINE
KRUEGER, individually, and WILL
MENAKER, individually,

Defendants. _____ /

**[PROPOSED] ORDER GRANTING JOINT MOTION
TO AMEND CERTAIN PRETRIAL DEADLINES**

THIS CAUSE came before the Court upon Plaintiff Jason Miller (“Plaintiff”) and Defendants’ Gizmodo Media Group, LLC and Katherine Krueger (“Defendants”), Joint Motion to Amend Certain Pretrial Deadlines [ECF No. ____] (“Motion”). Pursuant to Rule 16(b)(4) *Fed. R. Civ. P.* and upon good cause shown, it is hereby:

ORDERED AND ADJUDGED that the Motion is granted. The deadline to file *Daubert* motions is extended from June 27, 2019 to **July 18, 2019**. The deadline to file reply memorandum to dispositive/summary judgment motions is extended from July 18, 2019 to **July 22, 2019**. All other deadlines in the Amended Scheduling Order [ECF No. 101] remain in full force and effect.

DONE AND ORDERED in Miami, Florida, this ____ day of _____, 2019.

Hon. Cecilia Altonaga
United States District Judge

Copies furnished to: All Counsel of Record